

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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|--|---|-----------------|
| -----X | | |
| YARITZA SALAZAR GUERRERO, on behalf of : | : | |
| herself and all others similarly situated, : | : | 22-CV-7285(VEC) |
| | : | |
| Plaintiff, : | : | <u>ORDER</u> |
| -against- | : | |
| | : | |
| | : | |
| NUEVO TULCINGO AZTECA CORP., : | : | |
| GILBERTO MOLINA, : | : | |
| | : | |
| | : | |
| Defendants. : | : | |
| -----X | | |

VALERIE CAPRONI, United States District Judge:

WHEREAS on January 24, 2023, Plaintiff filed a proposed default judgment order and supporting papers, including a proposed damages calculation, *see* Dkts. 19–21;


WHEREAS the parties are scheduled to appear for a default judgment hearing (the “Hearing”) on February 13, 2023 at 11:00 A.M., *see* Dkt. 22; and

WHEREAS Plaintiff’s damages calculation assumes a different regular hourly rate for purposes of calculating minimum wage damages as opposed to overtime damages; *see* Damages Calculation, Dkt. 21-5, at 1–2;

IT IS HEREBY ORDERED that Plaintiff must be prepared to explain the legal authority for using a different regular hourly rate for purposes of calculating minimum wage damages as opposed to overtime damages at the Hearing. *See, e.g., Gao v. Jian Song Shi*, No. 18-CV-2708 (ARR) (LB), 2021 WL 1949275, at *11 (E.D.N.Y. Apr. 30, 2021) (applying the same regular hourly rate for purposes of calculating both minimum wage and overtime damages); *Martinez v. Alimentos Saludables Corp.*, No. 16-CV-1997 (DLI) (CLP), 2017 WL 5033650, at *14–15 (E.D.N.Y. Sept. 22, 2017) (same).

SO ORDERED.

Date: February 6, 2023
New York, New York



VALERIE CAPRONI
United States District Judge